



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,609	03/09/2004	Eiji Kato	FY.51042US1A	1785
20995 7590 03/14/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614				
EXAMINER ILAN, RUTH				
ART UNIT 3616		PAPER NUMBER		
NOTIFICATION DATE 03/14/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com
eOAPilot@kmob.com

Office Action Summary

Application No.

10/796,609

Applicant(s)

KATO ET AL.

Examiner

Ruth Ilan

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 5-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5-19 and 21-26 is/are rejected.
- 7) ☒ Claim(s) 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The indicated allowability of claims 9-24 and 6 and 7 is withdrawn in view of further consideration of the cited references. The Examiner regrets any inconvenience. New rejections follow below.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 10-13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 10 recites that the either the rear section of the first group or the front section of the second group "extends farther", but it doesn't say farther than what? What is being compared is completely unclear.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9- 19 and 21-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kosuge (US 4,798,400.) Please see Figure 2 and 3. Kosuge teaches an off-road vehicle including a plurality of wheel and a prime mover. The frame comprises a

plurality of frame members and the frame members are in first and second groups; 1 and 2 are in the first group and 6 and 7 are in the second. They overlap as claimed, in a rear section of the first group and a front of the second group, and the rear section of the first group defines a first portion coupled with the second group, and vice-versa (see Figure 3.) Regarding claim 10, as best understood, the rear section of the first group is wider than the front section of the first group (because 1 angles outward.) Regarding claims 11 and 16, the front section of 1 is interposed between the front wheels, and the front wheels are coupled with the front section (see col. 3, lines 40-45.) Regarding claim 12 and 18, the front section of the first group (of frames 1) is narrower than the rest of the frame and so meets this limitation. Regarding claims 13 and 17, the rear section (of 7) is interposed between the rear wheels and the rear wheels are coupled (via 23) to 7. Regarding claim 14, 7C is narrower, as claimed (see Figure 2.) Regarding claim 15, as seen in Figure 2, the frame is symmetrical. Regarding claim 19, the back end of 1 can fairly be termed part of the rear section that includes a front member. and the coupling is as claimed. Regarding claim 21, the frame members are tubular. Regarding claim 22 and 23, frame member 1 is rectangular and dimensioned as claimed. Regarding claim 24, 1 supports the front, and 7, via 23, supports the rear of the prime mover.

6. Claims 9- 12, 15, 21 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Izumi (US 6,269,899) Please see Figure 1 and 2. Izumi teaches an off-road vehicle including a plurality of wheels (46,48) and a prime mover (30) The frame comprises a plurality of frame members and the frame members are in first and second

groups; 124 and 26 are in the first group and 34 are in the second. They overlap as claimed, in a rear section of the first group and a front of the second group, and the rear section of the first group defines a first portion coupled with the second group, and vice-versa (see Figure 2) Regarding claim 10, as best understood, the rear section of the first group is wider than the front section of the first group and is also wider than the rear or front section of the second group (see Figure 2) Regarding claims 11 and 16, the front section of 26 is interposed between the front wheels, and the front wheels are coupled with the front section (see figure 1, at 50) Regarding claim 12 and 18, the front section of the first group (of frames 24, 26) is narrower than the rest of the frame and so meets this limitation. Regarding claim 15, as seen in Figure 1, the frame is symmetrical. Regarding claim 19, the back end of 1 can fairly be termed part of the rear section that includes a front member. and the coupling is as claimed. Regarding claim 21, the frame members are tubular. Regarding claim 24, the engine is supported as claimed.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 5-8, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kosuge (US 4,798,400.) Kosuge teaches an off-road vehicle having a frame (see Figure 3) a plurality of wheels having at least one front wheel (10) and a

prime mover (18) powering at least one of the wheels, the prime mover being mounted on the frame (see Figure 3) and the frame having a plurality of frame portions including at least first, second and third frame portions that extend adjacent to the primer mover, the first and second frame (7, 7a, and 2) being disposed generally to the lateral sides of the prime mover with the third frame portion (7b) extending generally between the first and second frame portions. Regarding the detachably affixed frame portion extending adjacent to an upper portion of the prime mover, it is the Examiner's position that the member 17 can, broadly and reasonably be considered a frame portion, and it extends in the claimed location. Figure 3 shows that this frame portion is connected to 7 by three attachments, which schematically appear to be screw or rivet connections, but does not specifically disclose that they are detachable. Detachable connections, such as bolts, screws, rivets are well known in the attachment art. Thus it would have been obvious to a person of ordinary skill in the art to select from amongst any of the well known attachment types, as person of ordinary skill has good reasons to pursue the known options within his or her technical grasp.

Allowable Subject Matter

9. Claim 20 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. The applicant's arguments have been considered, however the Examiner notes that the broadest reasonable interpretation of frame will include element 17 of Kosuge.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ruth Ilan
Primary Examiner
Art Unit 3616

/Ruth Ilan/
Primary Examiner, Art Unit 3616